

2005 DRAFTING REQUEST

Bill

Received: **01/14/2005**

Wanted: **As time permits**

For: **Carol Roessler (608) 266-5300**

This file may be shown to any legislator: **NO**

May Contact:

Subject: **Drunk Driving - penalties**

Submit via email: **YES**

Requester's email: **Sen.Roessler@legis.state.wi.us**

Carbon copy (CC:) to:

Received By: **phurley**

Identical to LRB:

By/Representing: **jennifer**

Drafter: **phurley**

Addl. Drafters:

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Drunk driving repeat offenders

Instructions:

2d and 3rd offenders to be put on probation

Drafting History:

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/?							
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/4	phurley 12/28/2005	lkunkel 01/11/2006	pgreensl 09/15/2005 _____		sbasford 09/15/2005		S&L Crime
/5			pgreensl 01/11/2006 _____		lnorthro 01/11/2006	sbasford 01/27/2006	

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At intro.

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[Handwritten signatures and initials are present over the bottom rows of the table.]

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9/15 p8

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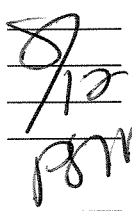
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13 lmk 8/12 

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*changed to
a 1/2 on
5/26/05
from a
duplicate
1/1 but w/
version changes.*

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Instructions:

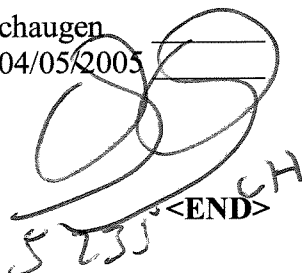
2^d and 3rd offenders to be put on probation

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12/mk5/23


5235 <END>

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FE Sent For:

1 lmk 4/4

ch
4-5

ch 4.5
pg 6

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/?	phurley	/pl lmk 2/15		 15			

FE Sent For:

<END>

Hurley, Peggy

From: Stegall, Jennifer
Sent: Tuesday, January 25, 2005 1:39 PM
To: Hurley, Peggy
Subject: RE: Safe Streets

Hi Peggy,

I discussed your question with Judge Woldt (Winnebago County) and he determined that it should apply to all OWI offenders. Senator Roessler is introducing this bill at the request of Judge Woldt and others.

Thank you!!

Jennifer

-----Original Message-----

From: Hurley, Peggy
Sent: Monday, January 24, 2005 12:09 PM
To: Stegall, Jennifer
Subject: RE: Safe Streets

Hi Jennifer,

I am drafting this request, and I have a few questions. First, does the Senator want these changes to apply only to "regular" OWI offenders, or does she also want them to apply to people who cause injury while driving drunk and/or to people who operate a commercial motor vehicle while drunk? The drafting instructions appear to apply the changes only to "regular" OWI offenders in some parts but to all OWI offenders (at least those on their 2d or 3rd violation) in others. Please advise. Thanks!

Peggy Hurley
Legislative Reference Bureau
608 266 8906

-----Original Message-----

From: Stegall, Jennifer
Sent: Friday, January 14, 2005 4:54 PM
To: Hurley, Peggy
Subject: Safe Streets

<< File: Safe Streets.doc >>
Peggy,

Here is the information I mentioned. Senator Roessler would like a bill drafted that allows 2nd and 3rd DWI offenders to be put on probation. The attached memo details the problematic statutes.

Please give me a call if you have any questions.

Thanks!

Jennifer Stegall
Office of Senator Carol Roessler
608-266-5300

Roesle 1731

Winnebago County Safe Streets Initiative

- **WHAT**

- AMEND WISCONSIN STATUTES TO ALLOW 2ND AND 3RD TIME DUNK DRIVERS TO BE PLACED ON PROBATION/COUNTY COMMUNITY CORRECTIONS TO ADDRESS THEIR REHABILITATIVE NEEDS.

- **WHY**

- THE ONLY MECHANISM TO ENFORCE AN ORDER FOR AN AODA IS REVOCATION OF DRIVERS LICENSE. OUR COURTS ARE NOW FLOODED WITH OAR CHARGES BECAUSE PEOPLE CONTINUE TO DRIVE WITHOUT AN AODA AND LICENSE.
- IF WE TREAT 2ND & 3RD OFFENDERS, WE CAN REDUCE RECIDIVISM AS SHOWN IN HASTINGS MN.
- REDUCED RECIDIVISM = REDUCED JAIL COST.
- REHABILITATION VS. INCARCERATION.
- See attached email to senator Ellis' office.

- **SPECIFIC STATUTES**

- DELETE STATUTE §973.09 (1) (d) IN PERTINENT PART:

... This paragraph does not apply if the conviction is for any of the following:

1. A violation under s. 346.63 (1) that subjects the person to a mandatory minimum period of imprisonment under s. 346.65(2) (b) or (c).
2. A violation under s. 346.63 (2) or (6) that subjects the person to a mandatory minimum period of imprisonment under
3. A violation under s. 346.63 (5) that... .

- ADD THE FOLLOWING TO §346.65:

(8) The above minimum mandatory imprisonment penalties do not apply if the person accepts and successfully completes a period of probation as imposed by the court.

The court needs to be able to withhold the immediate imposition of jail if the person accepts probation and gets the treatment they need. With minimum mandatory jail sentence, there is no incentive for the person to accept probation and therefore, nothing will change.

○ **DOUBLE THE MINIMUM MANDATORY
IMPRISONMENT IN §'S 346.65 (2) (b) & (c)**

- See attached statutes.
- This will give defendants the incentive to accept probation and not go to jail.
- With out increasing the minimum jail potential, many would refuse probation and counseling.
- Jail is the only hammer to hold over the offender's head.
- This insures that those who will not stop drinking and driving are removed from our "Safe Streets" while rehabilitating those who are in need of and have the desire to successfully complete AODA treatment.

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1-26-05
d-note

GenCat

1

AN ACT ...; relating to: drunken driving⁶ and creating a penalty.

Analysis by the Legislative Reference Bureau

LPS: insert component anal:prelim

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 346.65 (2) (b) of the statutes is amended to read:

3 346.65 (2) (b) Except as provided in par. (f), shall be fined not less than \$350
4 nor more than \$1,100 and imprisoned for not less than 5 10 days nor more than 6
5 months if the number of convictions under ss. 940.09 (1) and 940.25 in the person's
6 lifetime, plus the total number of suspensions, revocations and other convictions
7 counted under s. 343.307 (1) within a 10-year period, equals 2, except that
8 suspensions, revocations or convictions arising out of the same incident or
9 occurrence shall be counted as one. The minimum mandatory period of

1 imprisonment does not apply if the person successfully completes a period of
2 probation as imposed by the court. ✓

History: 1971 c. 278; 1973 c. 218; 1977 c. 193; 1979 c. 221; 1981 c. 20; 1985 a. 80, 337; 1987 a. 3, 27, 398, 399; 1989 a. 105, 176, 271; 1991 a. 39, 251, 277, 315; 1993 a. 198, 317, 475; 1995 a. 44, 338, 359, 425; 1997 a. 27, 135, 199, 237, 277, 283, 295; 1999 a. 32, 109; 2001 a. 16 ss. 3443k, 4060gm, 4060hw, 4060hy; 2001 a. 109; 2003 a. 33, 97, 139, 326.

3 **SECTION 2.** 346.65 (2) (c) of the statutes is amended to read:

4 346.65 (2) (c) Except as provided in pars. (f) and (g), shall be fined not less than
5 \$600 nor more than \$2,000 and imprisoned for not less than ~~30~~ 60 days nor more than
6 one year in the county jail if the number of convictions under ss. 940.09 (1) and 940.25
7 in the person's lifetime, plus the total number of suspensions, revocations and other
8 convictions counted under s. 343.307 (1), equals 3, except that suspensions,
9 revocations or convictions arising out of the same incident or occurrence shall be
10 counted as one. The minimum mandatory period of imprisonment does not apply if
11 the person successfully completes a period of probation as imposed by the court. ✓

History: 1971 c. 278; 1973 c. 218; 1977 c. 193; 1979 c. 221; 1981 c. 20; 1985 a. 80, 337; 1987 a. 3, 27, 398, 399; 1989 a. 105, 176, 271; 1991 a. 39, 251, 277, 315; 1993 a. 198, 317, 475; 1995 a. 44, 338, 359, 425; 1997 a. 27, 135, 199, 237, 277, 283, 295; 1999 a. 32, 109; 2001 a. 16 ss. 3443k, 4060gm, 4060hw, 4060hy; 2001 a. 109; 2003 a. 33, 97, 139, 326.

12 **SECTION 3.** 346.65 (2j) (b) of the statutes is amended to read:

13 346.65 (2j) (b) Except as provided in par. (d), shall be fined not less than \$300
14 nor more than \$1,000 and imprisoned for not less than ~~5~~ 10 days nor more than 6
15 months if the number of prior convictions under ss. 940.09 (1) and 940.25 in the
16 person's lifetime, plus the total number of other convictions, suspension and
17 revocations counted under s. 343.307 (2) within a 10-year period, equals 2. The
18 minimum mandatory period of imprisonment does not apply if the person
19 successfully completes a period of probation as imposed by the court. ✓

History: 1971 c. 278; 1973 c. 218; 1977 c. 193; 1979 c. 221; 1981 c. 20; 1985 a. 80, 337; 1987 a. 3, 27, 398, 399; 1989 a. 105, 176, 271; 1991 a. 39, 251, 277, 315; 1993 a. 198, 317, 475; 1995 a. 44, 338, 359, 425; 1997 a. 27, 135, 199, 237, 277, 283, 295; 1999 a. 32, 109; 2001 a. 16 ss. 3443k, 4060gm, 4060hw, 4060hy; 2001 a. 109; 2003 a. 33, 97, 139, 326.

20 **SECTION 4.** 346.65 (2j) (c) of the statutes is amended to read:

21 346.65 (2j) (c) Except as provided in par. (d), shall be fined not less than \$600
22 nor more than \$2,000 and imprisoned for not less than ~~30~~ 60 days nor more than one

1 year in the county jail if the number of convictions under ss. 940.09 (1) and 940.25
2 in the person's lifetime, plus the total number of other convictions, suspensions and
3 revocations counted under s. 343.307 (2), equals 3 or more. The minimum mandatory
4 period of imprisonment does not apply if the person successfully completes a period
5 of probation as imposed by the court. ✓

History: 1971 c. 278; 1973 c. 218; 1977 c. 193; 1979 c. 221; 1981 c. 20; 1985 a. 80, 337; 1987 a. 3, 27, 398, 399; 1989 a. 105, 176, 271; 1991 a. 39, 251, 277, 315; 1993
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33, 97, 139, 326.

6 **SECTION 5.** 346.65 (3m) of the statutes is amended to read:

7 346.65 (3m) Any person violating s. 346.63 (2) or (6) shall be fined not less than
8 \$300 nor more than \$2,000 and may be imprisoned for not less than 30 [✓]60 days nor
9 more than one year in the county jail. If there was a minor passenger under 16 years
10 of age in the motor vehicle at the time of the violation that gave rise to the conviction
11 under s. 346.63 (2) or (6), the offense is a felony, the applicable minimum and
12 maximum fines or periods of imprisonment for the conviction are doubled and the
13 place of imprisonment shall be determined under s. 973.02. The minimum
14 mandatory period of imprisonment does not apply if the person successfully
15 completes a period of probation as imposed by the court. ✓

History: 1971 c. 278; 1973 c. 218; 1977 c. 193; 1979 c. 221; 1981 c. 20; 1985 a. 80, 337; 1987 a. 3, 27, 398, 399; 1989 a. 105, 176, 271; 1991 a. 39, 251, 277, 315; 1993
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33, 97, 139, 326.

16 **SECTION 6.** 973.09 (1) (d) (intro.) of the statutes is amended to read:

17 973.09 (1) (d) (intro.) If a person is convicted of an offense that provides a
18 mandatory or presumptive minimum period of one year or less of imprisonment, a
19 court may place the person on probation under par. (a) if the court requires, as a
20 condition of probation, that the person be confined under sub. (4) for at least that
21 mandatory or presumptive minimum period. The person is eligible to earn good time
22 credit calculated under s. 302.43 regarding the period of confinement. This
23 ~~paragraph does not apply if the conviction is for any of the following:~~ ✓

1

SECTION 7. 973.09 (1) (d) 1. of the statutes is repealed. ✓

2

SECTION 8. 973.09 (1) (d) 2. of the statutes is repealed. ✓

3

SECTION 9. 973.09 (1) (d) 3. of the statutes is repealed. ✓

4

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

(date)

LRB-1731/?dn

PJH:.....

Imk

✓
Please review this draft carefully to ensure that it is consistent with your intent. ✓ If it
is, I will write an analysis and put the draft into final form for submitting. ✓

Peggy Hurley
Legislative Attorney
Phone: (608) 266-8906
E-mail: peggy.hurley@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1731/P1dn

PJH:lmk:jf

February 15, 2005

Please review this draft carefully to ensure that it is consistent with your intent. If it is, I will write an analysis and put the draft into final form for submitting.

Peggy Hurley
Legislative Attorney
Phone: (608) 266-8906
E-mail: peggy.hurley@legis.state.wi.us

Hurley, Peggy

From: Stegall, Jennifer
Sent: Thursday, March 10, 2005 9:56 PM
To: Hurley, Peggy
Subject: Modifications to LRB 1731/P1

Hi Peggy,

Below are modifications that need to be made to LRB 1731/P1.

- After the word, "court" on the following pages, add, "which includes alcohol and other drug treatment."

Page 2 Line 4
Page 2 Line 13
Page 2 Line 21
Page 3 Line 4
Page 3 Line 14

- In the following lines, delete, "does not apply," and instead insert, "will be decreased by 75%."

Page 2, Line 12
Page 2, Line 20
Page 3, Line 3
Page 3, Line 13

In addition, Senator Roessler has decided she would rather this bill not apply statewide. She would like it to be a pilot for Winnebago County only.

The Judge I am working with in Winnebago County indicated the following:

"We have a concern that the Counties may fight the increase in jail for those that don't make it through probation. We would suggest that the legislative notes confirm that the Sheriff has the discretion to impose house arrest per Sec. 302.425 (2) & (3) Wis Stats."

Can you include a reference to this?

Let me know what you think.

Thanks,

Jennifer Stegall
Office of Senator Carol Roessler
266-5300

*Imp not necessary
esp. if Win Cty
only.*

*Increases
+
↓ for success } only for
Win.*

keep

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

4/10/05

Reisen

1 AN ACT *to repeal* 973.09 (1) (d) 1., 973.09 (1) (d) 2. and 973.09 (1) (d) 3.; and *to*
2 *amend* 346.65 (2) (b), 346.65 (2) (c), 346.65 (2j) (b), 346.65 (2j) (c), 346.65 (3m)
3 and 973.09 (1) (d) (intro.) of the statutes; **relating to:** drunken driving and
4 creating a penalty. ✓

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 SECTION 1. 346.65 (2) (b) of the statutes is amended to read:

6 346.65 (2) (b) Except as provided in par. (f), shall be fined not less than \$350
7 nor more than \$1,100 and imprisoned for not less than 5 days nor more than 6
8 months if the number of convictions under ss. 940.09 (1) and 940.25 in the person's
9 lifetime, plus the total number of suspensions, revocations and other convictions
10 counted under s. 343.307 (1) within a 10-year period, equals 2, except that

1 suspensions, revocations or convictions arising out of the same incident or
2 occurrence shall be counted as one. The minimum mandatory period of
3 imprisonment does not apply if the person successfully completes a period of
4 probation as imposed by the court. *Insert A*

5 **SECTION 2.** 346.65 (2) (c) of the statutes is amended to read: *30*

6 346.65 (2) (c) Except as provided in pars. (f) and (g), shall be fined not less than
7 \$600 nor more than \$2,000 and imprisoned for not less than ~~30~~ *30* days nor more than
8 one year in the county jail if the number of convictions under ss. 940.09 (1) and 940.25
9 in the person's lifetime, plus the total number of suspensions, revocations and other
10 convictions counted under s. 343.307 (1), equals 3, except that suspensions,
11 revocations or convictions arising out of the same incident or occurrence shall be
12 counted as one. The minimum mandatory period of imprisonment does not apply if
13 the person successfully completes a period of probation as imposed by the court. *Insert B*

14 **SECTION 3.** 346.65 (2j) ^X(b) of the statutes is amended to read:

15 346.65 (2j) (b) Except as provided in par. (d), shall be fined not less than \$300
16 nor more than \$1,000 and imprisoned for not less than ~~5~~ *5* days nor more than 6
17 months if the number of prior convictions under ss. 940.09 (1) and 940.25 in the
18 person's lifetime, plus the total number of other convictions, suspension and
19 revocations counted under s. 343.307 (2) within a 10-year period, equals 2. The
20 minimum mandatory period of imprisonment does not apply if the person
21 successfully completes a period of probation as imposed by the court. *Insert A*

22 **SECTION 4.** 346.65 (2j) ^X(c) of the statutes is amended to read:

23 346.65 (2j) (c) Except as provided in par. (d), shall be fined not less than \$600
24 nor more than \$2,000 and imprisoned for not less than ~~30~~ *30* days nor more than one
25 year in the county jail if the number of convictions under ss. 940.09 (1) and 940.25

1 in the person's lifetime, plus the total number of other convictions, suspensions and
2 revocations counted under s. 343.307 (2), equals 3 or more. The minimum mandatory
3 period of imprisonment does not apply if the person successfully completes a period
4 of probation as imposed by the court. Insert B

5 **SECTION 5.** 346.65 (3m)^X of the statutes is amended to read:

6 346.65 (3m) Any person violating s. 346.63 (2) or (6) shall be fined not less than
7 \$300 nor more than \$2,000 and may be imprisoned for not less than 30,60 days nor
8 more than one year in the county jail. If there was a minor passenger under 16 years
9 of age in the motor vehicle at the time of the violation that gave rise to the conviction
10 under s. 346.63 (2) or (6), the offense is a felony, the applicable minimum and
11 maximum fines or periods of imprisonment for the conviction are doubled and the
12 place of imprisonment shall be determined under s. 973.02. The minimum
13 mandatory period of imprisonment does not apply if the person successfully
14 completes a period of probation as imposed by the court. Insert B

15 **SECTION 6.** 973.09 (1) (d) (intro.) of the statutes is amended to read:

16 973.09 (1) (d) (intro.) If a person is convicted of an offense that provides a
17 mandatory or presumptive minimum period of one year or less of imprisonment, a
18 court may place the person on probation under par. (a) if the court requires, as a
19 condition of probation, that the person be confined under sub. (4) for at least that
20 mandatory or presumptive minimum period. The person is eligible to earn good time
21 credit calculated under s. 302.43 regarding the period of confinement. This
22 paragraph does not apply if the conviction is for any of the following:

23 **SECTION 7.** 973.09 (1) (d) 1. of the statutes is repealed.

24 **SECTION 8.** 973.09 (1) (d) 2. of the statutes is repealed.

1 **SECTION 9.** 973.09 (1) (d) 3. of the statutes is repealed.

2 (END)

Insert C

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1731/P1ins
PJH:lmk:jf

ANALYSIS INSERT:

This bill creates a pilot program for sentencing persons in Winnebago county who are convicted of certain offenses involving operating a motor vehicle with a prohibited alcohol concentration, or under the influence of an intoxicant, a controlled substance or its analog, or any combination thereof (OWI). ✓

* Under the bill, the minimum periods of imprisonment for an OWI offense ^{is} doubled in Winnebago county, except that if the violator successfully completes a period of probation that includes alcohol and other drug treatment, the minimum period of imprisonment is reduced by 75 percent. ✓

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

INSERT A:

NOT Notwithstanding s. 973.09 (1) (d), in Winnebago County, the period of imprisonment shall be not less than 10 days, except that if the person successfully completes a period of probation that includes alcohol and other drug treatment, the period of imprisonment shall be not less than 3 days. ✓

INSERT B:

NOT Notwithstanding s. 973.09 (1) (d), in Winnebago County, the period of imprisonment shall be not less than 60 days, except that if the person successfully completes a period of probation that includes alcohol and other drug treatment, the period of imprisonment shall be not less than 15 days. ✓

INSERT C:

SECTION 1. Initial applicability. ✓

(1) This act first applies to violations that are committed on the effective date of this subsection. ✓

2
↑
Keep

2005 BILL

5-23-05
Soc
First, second, or third
Refer

- 1 AN ACT *to amend* 346.65 (2) (b), 346.65 (2) (c), 346.65 (2j) (b), 346.65 (2j) (c) and
2 346.65 (3m) of the statutes; **relating to:** drunken driving and creating a
3 penalty. ✓

Analysis by the Legislative Reference Bureau

This bill creates a pilot program for sentencing persons in Winnebago county who are convicted of certain offenses involving operating a motor vehicle with a prohibited alcohol concentration, or under the influence of an intoxicant, a controlled substance or its analog, or any combination thereof (OWI).

Under the bill, the minimum period of imprisonment for an OWI offense doubled in Winnebago county, except that if the violator successfully completes a period of probation that includes alcohol and other drug treatment, the minimum period of imprisonment is reduced by 75 percent.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

BILL

1 **SECTION 1.** 346.65 (2) (b) of the statutes is amended to read:

2 346.65 (2) (b) Except as provided in par. (f), shall be fined not less than \$350
3 nor more than \$1,100 and imprisoned for not less than 5 days nor more than 6 months
4 if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime,
5 plus the total number of suspensions, revocations and other convictions counted
6 under s. 343.307 (1) within a 10-year period, equals 2, except that suspensions,
7 revocations or convictions arising out of the same incident or occurrence shall be
8 counted as one. ~~Notwithstanding s. 973.09 (1) (d), in Winnebago County, the period~~
9 of imprisonment shall be not less than 10 days, except that if the person successfully
10 completes a period of probation that includes alcohol and other drug treatment, the
11 period of imprisonment shall be not less than 3 days. ✓

12 **SECTION 2.** 346.65 (2) (c) of the statutes is amended to read:

13 346.65 (2) (c) Except as provided in pars. (f) and (g), shall be fined not less than
14 \$600 nor more than \$2,000 and imprisoned for not less than 30 days nor more than
15 one year in the county jail if the number of convictions under ss. 940.09 (1) and 940.25
16 in the person's lifetime, plus the total number of suspensions, revocations and other
17 convictions counted under s. 343.307 (1), equals 3, except that suspensions,
18 revocations or convictions arising out of the same incident or occurrence shall be
19 counted as one. ~~Notwithstanding s. 973.09 (1) (d), in Winnebago County, the period~~
20 of imprisonment shall be not less than 60 days, except that if the person successfully
21 completes a period of probation that includes alcohol and other drug treatment, the
22 period of imprisonment shall be not less than 15 days.

23 **SECTION 3.** 346.65 (2j) (b) of the statutes is amended to read:

24 346.65 (2j) (b) Except as provided in par. (d), shall be fined not less than \$300
25 nor more than \$1,000 and imprisoned for not less than 5 days nor more than 6 months

BILL

1 if the number of prior convictions under ss. 940.09 (1) and 940.25 in the person's
2 lifetime, plus the total number of other convictions, suspension and revocations
3 counted under s. 343.307 (2) within a 10-year period, equals 2. ~~Notwithstanding s.~~
4 ~~973.09 (1) (d)~~ in Winnebago County, the period of imprisonment shall be not less
5 than 10 days, except that if the person successfully completes a period of probation
6 that includes alcohol and other drug treatment, the period of imprisonment shall be
7 not less than 3 days. ✓

8 **SECTION 4.** 346.65 (2j) (c) of the statutes is amended to read:

9 346.65 (2j) (c) Except as provided in par. (d), shall be fined not less than \$600
10 nor more than \$2,000 and imprisoned for not less than 30 days nor more than one
11 year in the county jail if the number of convictions under ss. 940.09 (1) and 940.25
12 in the person's lifetime, plus the total number of other convictions, suspensions and
13 revocations counted under s. 343.307 (2), equals 3 or more. ~~Notwithstanding s.~~
14 ~~973.09 (1) (d)~~ in Winnebago County, the period of imprisonment shall be not less
15 than 60 days, except that if the person successfully completes a period of probation
16 that includes alcohol and other drug treatment, the period of imprisonment shall be
17 not less than 15 days. ✓

18 **SECTION 5.** 346.65 (3m) of the statutes is amended to read:

19 346.65 (3m) Any person violating s. 346.63 (2) or (6) shall be fined not less than
20 \$300 nor more than \$2,000 and may be imprisoned for not less than 30 days nor more
21 than one year in the county jail. If there was a minor passenger under 16 years of
22 age in the motor vehicle at the time of the violation that gave rise to the conviction
23 under s. 346.63 (2) or (6), the offense is a felony, the applicable minimum and
24 maximum fines or periods of imprisonment for the conviction are doubled and the
25 place of imprisonment shall be determined under s. 973.02. ~~Notwithstanding s.~~

BILL

1 ~~973.09 (1) (d)~~ in Winnebago County, the period of imprisonment shall be not less
2 than 60 days, except that if the person successfully completes a period of probation
3 that includes alcohol and other drug treatment, the period of imprisonment shall be
4 not less than 15 days.

5 **SECTION 6. Initial applicability.**

6 (1) This act first applies to violations that are committed on the effective date
7 of this subsection.

8 (END)

INSERT A

~~973.09 (1) (d) 1. unless the person
is participating
in a mandatory
drug or alcohol
treatment program
if the~~

**2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1731/lins
PJH:lmk:ch

1 INSERT A:

2 ~~SECTION 1.~~ [✓] 973.09 (1) (d) 1. of the statutes is amended to read:

3 973.09 (1) (d) 1. A violation under s. 346.63 (1) that subjects the person to a
4 mandatory minimum period of imprisonment under s. 346.65 (2) (b) or (c). This
5 [✓]subdivision does not apply to a person sentenced in Winnebago County if the court
6 orders the person to complete a period of probation that includes alcohol and other
7 drug treatment. [✓]

History: 1971 c. 298; 1979 c. 119, 189, 238, 355, 356; 1981 c. 50, 88, 326, 352, 391; 1983 a. 27, 104, 254, 346, 519, 538; 1985 a. 150; 1987 a. 347, 398, 403, 412; 1989 a. 31, 121, 188; 1991 a. 39; 1993 a. 48, 486; 1995 a. 24, 224, 281; 1997 a. 27, 41, 289; 1999 a. 9, 58, 69, 186; 2001 a. 16, 104, 109; 2003 a. 33, 121, 139, 141.

end of insert

Other

keep

2005 BILL

8-2-05

✓

ReGen

- 1 AN ACT *to amend* 346.65 (2) (b), 346.65 (2) (c), 346.65 (2j) (b), 346.65 (2j) (c),
2 346.65 (3m) and 973.09 (1) (d) 1. of the statutes; **relating to:** drunken driving
3 and creating a penalty. ✓

Analysis by the Legislative Reference Bureau

This bill creates a pilot program for sentencing persons in Winnebago county who are convicted of certain first, second, or third offenses involving operating a motor vehicle with a prohibited alcohol concentration, or under the influence of an intoxicant, a controlled substance or its analog, or any combination thereof (OWI).

Under the bill, the minimum period of imprisonment for an OWI offense doubled in Winnebago county, except that if the violator successfully completes a period of probation that includes alcohol and other drug treatment, the minimum period of imprisonment is reduced by 75 percent.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

BILL

1 **SECTION 1.** 346.65 (2) (b) of the statutes is amended to read:

2 346.65 (2) (b) Except as provided in par. (f), shall be fined not less than \$350
3 nor more than \$1,100 and imprisoned for not less than 5 days nor more than 6 months
4 if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime,
5 plus the total number of suspensions, revocations and other convictions counted
6 under s. 343.307 (1) within a 10-year period, equals 2, except that suspensions,
7 revocations or convictions arising out of the same incident or occurrence shall be
8 counted as one. In Winnebago County, the period of imprisonment shall be not less
9 than 10 days, except that if the person successfully completes a period of probation
10 that includes alcohol and other drug treatment, the period of imprisonment shall be
11 not less than 3 days.

12 **SECTION 2.** 346.65 (2) (c) of the statutes is amended to read:

13 346.65 (2) (c) Except as provided in pars. (f) and (g), shall be fined not less than
14 \$600 nor more than \$2,000 and imprisoned for not less than 30 days nor more than
15 one year in the county jail if the number of convictions under ss. 940.09 (1) and 940.25
16 in the person's lifetime, plus the total number of suspensions, revocations and other
17 convictions counted under s. 343.307 (1), equals 3, except that suspensions,
18 revocations or convictions arising out of the same incident or occurrence shall be
19 counted as one. In Winnebago County, the period of imprisonment shall be not less
20 than 60 days, except that if the person successfully completes a period of probation
21 that includes alcohol and other drug treatment, the period of imprisonment shall be
22 not less than 15 days.

23 **SECTION 3.** 346.65 (2j) (b) of the statutes is amended to read:

24 346.65 (2j) (b) Except as provided in par. (d), shall be fined not less than \$300
25 nor more than \$1,000 and imprisoned for not less than 5 days nor more than 6 months

BILL

1 if the number of prior convictions under ss. 940.09 (1) and 940.25 in the person's
2 lifetime, plus the total number of other convictions, suspension and revocations
3 counted under s. 343.307 (2) within a 10-year period, equals 2. In Winnebago
4 County, the period of imprisonment shall be not less than 10 days, except that if the
5 person successfully completes a period of probation that includes alcohol and other
6 drug treatment, the period of imprisonment shall be not less than 3 days.

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8 346.65 (2j) (c) Except as provided in par. (d), shall be fined not less than \$600
9 nor more than \$2,000 and imprisoned for not less than 30 days nor more than one
10 year in the county jail if the number of convictions under ss. 940.09 (1) and 940.25
11 in the person's lifetime, plus the total number of other convictions, suspensions and
12 revocations counted under s. 343.307 (2), equals 3 or more. In Winnebago County,
13 the period of imprisonment shall be not less than 60 days, except that if the person
14 successfully completes a period of probation that includes alcohol and other drug
15 treatment, the period of imprisonment shall be not less than 15 days.

16 **SECTION 5.** 346.65 (3m) of the statutes is amended to read:

17 346.65 (3m) Any person violating s. 346.63 (2) or (6) shall be fined not less than
18 \$300 nor more than \$2,000 and may be imprisoned for not less than 30 days nor more
19 than one year in the county jail. ~~If~~ there was a minor passenger under 16 years of
20 age in the motor vehicle at the time of the violation that gave rise to the conviction
21 under s. 346.63 (2) or (6), the offense is a felony, the applicable minimum and
22 maximum fines or periods of imprisonment for the conviction are doubled and the
23 place of imprisonment shall be determined under s. 973.02. In Winnebago County,
24 the period of imprisonment shall be not less than 60 days, except that if the person

more

BILL**SECTION 5***move to pg. 3*

1 successfully completes a period of probation that includes alcohol and other drug
2 treatment, the period of imprisonment shall be not less than 15 days.

3 **SECTION 6.** 973.09 (1) (d) 1. of the statutes is amended to read:

4 973.09 (1) (d) 1. A violation under s. 346.63 (1) that subjects the person to a
5 mandatory minimum period of imprisonment under s. 346.65 (2) (b) or (c). This
6 subdivision does not apply to a person sentenced in Winnebago County if the court
7 orders the person to complete a period of probation that includes alcohol and other
8 drug treatment.

9 **SECTION 7. Initial applicability.**

10 (1) This act first applies to violations that are committed on the effective date
11 of this subsection.

12 (END)

move to pg. 3.

In any county, if
=

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↑
keep

2005 BILL

9-1-05
soonA person may opt to
complete a treatment program and
receive a reduced period of imprisonment
only once ✓

- 1 AN ACT to amend 346.65 (2) (b), 346.65 (2) (c), 346.65 (2j) (b), 346.65 (2j) (c),
2 346.65 (3m) and 973.09 (1) (d) 1. of the statutes; relating to: drunken driving
3 and creating a penalty.

Analysis by the Legislative Reference Bureau

This bill creates a pilot program for sentencing persons in Winnebago county who are convicted of certain first, second, or third offenses involving operating a motor vehicle with a prohibited alcohol concentration, or under the influence of an intoxicant, a controlled substance or its analog, or any combination thereof (OWI).

Under the bill, the minimum period of imprisonment for an OWI offense doubled in Winnebago county, except that if the violator successfully completes a period of probation that includes alcohol and other drug treatment, the minimum period of imprisonment is reduced by 75 percent.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1731/3ins
PJH:lmk:pg

1 INSERT A:

2 SECTION ~~1.~~ 346.65 (2) (bm) of the statutes is created to read:

3 346.65 (2) (bm) In Winnebago County, if the number of convictions under ss.
4 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions,
5 revocations, and other convictions counted under s. 343.307 (1) within a 10-year
6 period, equals 2, except that suspensions, revocations, or convictions arising out of
7 the same incident or occurrence shall be counted as one, the fine shall be the same
8 as under par. (b), but the period of imprisonment shall be not less than 10 days,
9 except that if the person successfully completes a period of probation that includes
10 alcohol and other drug treatment, the period of imprisonment shall be not less than
11 3 days. A person may be sentenced under this ~~section~~ ^{paragraph} or under s. 346.65 (2) (cm) ^{par.} (2j) ^{or sub.}
12 (bm) or (cm) or (3r) once in his or her lifetime.

13 INSERT B:

14 SECTION ~~2.~~ 346.65 (2) (cm) of the statutes is created to read:

15 346.65 (2) (cm) In Winnebago County, if the number of convictions under ss.
16 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions,
17 revocations, and other convictions counted under s. 343.307 (1) within a 10-year
18 period, equals 3, except that suspensions, revocations, or convictions arising out of
19 the same incident or occurrence shall be counted as one, the fine shall be the same
20 as under par. (c), but the period of imprisonment shall be not less than 60 days, except
21 that if the person successfully completes a period of probation that includes alcohol
22 and other drug treatment, the period of imprisonment shall be not less than 15 days.

BILL

✓
pars. (bm) and

1 **SECTION 1.** 346.65 (2) (b) of the statutes is amended to read:

2 346.65 (2) (b) Except as provided in ~~par.~~[↓] (f), shall be fined not less than \$350
3 nor more than \$1,100 and imprisoned for not less than 5 days nor more than 6 months
4 if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime,
5 plus the total number of suspensions, revocations[^], and other convictions counted
6 under s. 343.307 (1) within a 10-year period, equals 2, except that suspensions,
7 revocations[^], or convictions arising out of the same incident or occurrence shall be
8 counted as one. In Winnebago County, the period of imprisonment shall be not less
9 than 10 days, except that if the person successfully completes a period of probation
10 that includes alcohol and other drug treatment, the period of imprisonment shall be
11 not less than 3 days. ~ insert A9

12 **SECTION 2.** 346.65 (2) (c) of the statutes is amended to read:

(cm)[^]

13 346.65 (2) (c) Except as provided in pars. (f) and (g)², shall be fined not less than
14 \$600 nor more than \$2,000 and imprisoned for not less than 30 days nor more than
15 one year in the county jail if the number of convictions under ss. 940.09 (1) and 940.25
16 in the person's lifetime, plus the total number of suspensions, revocations[^], and other
17 convictions counted under s. 343.307 (1), equals 3, except that suspensions,
18 revocations[^], or convictions arising out of the same incident or occurrence shall be
19 counted as one. In Winnebago County, the period of imprisonment shall be not less
20 than 60 days, except that if the person successfully completes a period of probation
21 that includes alcohol and other drug treatment, the period of imprisonment shall be
22 not less than 15 days. ~ insert B9

23 **SECTION 3.** 346.65 (2j) (b) of the statutes is amended to read:

pars. (bm) and

24 346.65 (2j) (b) Except as provided in ~~par.~~[↓] (d), shall be fined not less than \$300
25 nor more than \$1,000 and imprisoned for not less than 5 days nor more than 6 months

1 A person may be sentenced under this ^{paragraph} section or under s. 346.65 (2) ^{par.} (bm) ^{or sub.} (2j) (bm)
2 or (cm) ^b or (3r) once in his or her lifetime.

3 INSERT C:

4 ~~SECTION 3.~~ 346.65 (2j) (bm) of the statutes is created to read:

5 346.65 (2j) (bm) In Winnebago County, if the number of convictions under ss.
6 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions,
7 revocations, and other convictions counted under s. 343.307 (1) within a 10-year
8 period, equals 2, except that suspensions, revocations, or convictions arising out of
9 the same incident or occurrence shall be counted as one, the fine shall be the same
10 as under par. ^b (b), but the period of imprisonment shall be not less than 10 days, except
11 that if the person successfully completes a period of probation that includes alcohol
12 and other drug treatment, the period of imprisonment shall be not less than 3 days.

13 A person may be sentenced under this ^{paragraph} section or under s. 346.65 ^{par. (cm) or sub.} (2) (bm) or (cm) ^b (2j)
14 ^b (cm) or (3r) once in his or her lifetime.

15 INSERT D:

16 ~~SECTION 4.~~ 346.65 (2j) (cm) of the statutes is created to read:

17 In Winnebago County, if the number of convictions under ss. 940.09 (1) and
18 940.25 in the person's lifetime, plus the total number of suspensions, revocations, and
19 other convictions counted under s. 343.307 (1) within a 10-year period, equals 3 or
20 more, except that suspensions, revocations, or convictions arising out of the same
21 incident or occurrence shall be counted as one, the fine shall be the same as under
22 par. (c), but the period of imprisonment shall be not less than 60 days, except that
23 if the person successfully completes a period of probation that includes alcohol and
24 other drug treatment, the period of imprisonment shall be not less than 15 days. A

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1 if the number of prior convictions under ss. 940.09 (1) and 940.25 in the person's
2 lifetime, plus the total number of other convictions, suspension[^] and revocations
3 counted under s. 343.307 (2) within a 10-year period, equals 2. In Winnebago
4 County, the period of imprisonment shall be not less than 10 days, except that if the
5 person successfully completes a period of probation that includes alcohol and other
6 drug treatment, the period of imprisonment shall be not less than 3 days. Insert C

7 **SECTION 4.** 346.65 (2j) (c) of the statutes is amended to read:

8 346.65 (2j) (c) Except as provided in par. (d), par. (cm) and shall be fined not less than \$600
9 nor more than \$2,000 and imprisoned for not less than 30 days nor more than one
10 year in the county jail if the number of convictions under ss. 940.09 (1) and 940.25
11 in the person's lifetime, plus the total number of other convictions, suspensions[^] and
12 revocations counted under s. 343.307 (2), equals 3 or more. In Winnebago County,
13 the period of imprisonment shall be not less than 60 days, except that if the person
14 successfully completes a period of probation that includes alcohol and other drug
15 treatment, the period of imprisonment shall be not less than 15 days. Insert d

16 **SECTION 5.** 346.65 (3m) of the statutes is amended to read:

17 346.65 (3m) Except as provided in sub. (3r), any Any person violating s. 346.63 (2) or (6) shall be fined not less than
18 \$300 nor more than \$2,000 and may be imprisoned for not less than 30 days nor more
19 than one year in the county jail. If In Winnebago County, the period of imprisonment
20 shall be not less than 60 days, except that if the person successfully completes a
21 period of probation that includes alcohol and other drug treatment, the period of
22 imprisonment shall be not less than 15 days. In any county, if there was a minor
23 passenger under 16 years of age in the motor vehicle at the time of the violation that
24 gave rise to the conviction under s. 346.63 (2) or (6), the offense is a felony, the
25 applicable minimum and maximum fines or periods of imprisonment for the

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1 conviction are doubled and the place of imprisonment shall be determined under s.
2 973.02. ⁴Insert e

3 **SECTION 6.** 973.09 (1) (d) 1. of the statutes is amended to read:

4 973.09 (1) (d) 1. A violation under s. 346.63 (1) that subjects the person to a
5 mandatory minimum period of imprisonment under s. 346.65 (2) (b) or (c). This
6 subdivision does not apply to a person sentenced in Winnebago County if the court
7 orders the person to complete a period of probation that includes alcohol and other
8 drug treatment.

9 **SECTION 7. Initial applicability.**

10 (1) This act first applies to violations that are committed on the effective date
11 of this subsection.

12 (END)

1 person may be sentenced under this ^{paragraph} ~~section~~ or under ^e ~~s. 346.65~~ ^{par. (bm) or sub} (2) (bm) or (cm), ^e (2j)
2 ^e (bm), or (3r) once in his or her lifetime.

3 INSERT E:

4 SECTION ~~5~~ 346.65 (3r) of the statutes is created to read: ✓

5 346.65 (3r) In Winnebago County, any person violating s. 346.63 (2) or (6) shall
6 be fined the same as under sub. (3m), but the period of imprisonment shall be not
7 less than 60[✓] days, except that if the person successfully completes a period of
8 probation that includes alcohol and other drug treatment, the period of
9 imprisonment shall be not less than 15 days. If there was a minor passenger under
10 16 years of age in the motor vehicle at the time of the violation that gave rise to the
11 conviction under s. 346.63 (2) or (6),[✓] the offense is a felony,[✓] the applicable minimum
12 and maximum fines or periods of imprisonment for the conviction are doubled and
13 the place of imprisonment shall be determined under s. 973.02. A person may be
14 sentenced under this ^{subsection} ~~section~~ or under ^{sub.} ~~s. 346.65~~ (2) (bm) or (cm),^e or (2j) (bm) or (cm)
15 once in his or her lifetime.

Hurley, Peggy

From: Wagner, Mike
Sent: Friday, December 16, 2005 6:36 PM
To: Hurley, Peggy
Subject: RE: LRB 1731/4

Attachments: 05-17314.pdf

Peggy,

Please incorporate the following changes into LRB 1731/4. To clarify the first change, this bill is meant for repeat offenders only. However, the pilot program is only available once to offenders (for example if I participated after my 2nd OWI, I would not be eligible to participate again). The second set of changes, I think, are more direct. I'll be out of the office until Thursday, December 22, but feel free to e-mail me with questions until then.

1. The easiest, under the "Analysis by the Legislative Reference Bureau" second line, delete the word "first". This legislation does not apply to first time offenders!
2. In sections 346.65 (2) (bm) & 346.65 (2j) (bm) change "10 days" to "5 days" and "3 days to 2 days". In sections 346.65 (2) (cm) & 346.65 (2j) (cm) change "60 days" to "30 days" and "15 days" to "7 days".



05-17314.pdf (25
KB)

Thanks,

Mike Wagner
Office of Sen. Carol Roessler
608-266-5300

1/11
~~12/11~~

2005 - 2006 LEGISLATURE

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LRB-1731/4
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2005 BILL

1-505

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✓t

1 AN ACT *to amend* 346.65 (2) (b), 346.65 (2) (c), 346.65 (2j) (b), 346.65 (2j) (c),
2 346.65 (3m) and 973.09 (1) (d) 1.; and *to create* 346.65 (2) (bm), 346.65 (2) (cm),
3 346.65 (2j) (bm), 346.65 (2j) (cm) and 346.65 (3r) of the statutes; **relating to:**
4 drunken driving and creating a penalty.

Analysis by the Legislative Reference Bureau

This bill creates a pilot program for sentencing persons in Winnebago county who are convicted of certain ~~first~~ second or third offenses involving operating a motor vehicle with a prohibited alcohol concentration, or under the influence of an intoxicant, a controlled substance or its analog, or any combination thereof (OWI).

Under the bill, the minimum period of imprisonment for an OWI offense ~~is~~ doubled in Winnebago county ~~except that~~ if the violator successfully completes a period of probation that includes alcohol and other drug treatment, the minimum period of imprisonment is reduced by 75 percent. A person may opt to complete a treatment program and receive a reduced period of imprisonment only once.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 346.65 (2) (b) of the statutes is amended to read:

2 346.65 (2) (b) Except as provided in ~~par.~~ pars. (bm) and (f), shall be fined not
3 less than \$350 nor more than \$1,100 and imprisoned for not less than 5 days nor more
4 than 6 months if the number of convictions under ss. 940.09 (1) and 940.25 in the
5 person's lifetime, plus the total number of suspensions, revocations, and other
6 convictions counted under s. 343.307 (1) within a 10-year period, equals 2, except
7 that suspensions, revocations, or convictions arising out of the same incident or
8 occurrence shall be counted as one.

9 **SECTION 2.** 346.65 (2) (bm) of the statutes is created to read:

10 346.65 (2) (bm) In Winnebago County, if the number of convictions under ss.
11 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions,
12 revocations, and other convictions counted under s. 343.307 (1) within a 10-year
13 period, equals 2, except that suspensions, revocations, or convictions arising out of
14 the same incident or occurrence shall be counted as one, the fine shall be the same
15 as under par. (b), but the period of imprisonment shall be not less than 10 days, ⁵
16 except that if the person successfully completes a period of probation that includes
17 alcohol and other drug treatment, the period of imprisonment shall be not less than
18 3 days. A person may be sentenced under this paragraph or under par. (cm) or sub.
19 (2j) (bm) or (cm) or (3r) once in his or her lifetime.

20 **SECTION 3.** 346.65 (2) (c) of the statutes is amended to read:

BILL

1 346.65 (2) (c) Except as provided in pars. (cm), (f), and (g), shall be fined not
2 less than \$600 nor more than \$2,000 and imprisoned for not less than 30 days nor
3 more than one year in the county jail if the number of convictions under ss. 940.09
4 (1) and 940.25 in the person's lifetime, plus the total number of suspensions,
5 revocations, and other convictions counted under s. 343.307 (1), equals 3, except that
6 suspensions, revocations, or convictions arising out of the same incident or
7 occurrence shall be counted as one.

8 **SECTION 4.** 346.65 (2) (cm) of the statutes is created to read:

9 346.65 (2) (cm) In Winnebago County, if the number of convictions under ss.
10 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions,
11 revocations, and other convictions counted under s. 343.307 (1) within a 10-year
12 period, equals 3, except that suspensions, revocations, or convictions arising out of
13 the same incident or occurrence shall be counted as one, the fine shall be the same
14 as under par. (c), but the period of imprisonment shall be not less than ~~60~~ ³⁰ days, except
15 that if the person successfully completes a period of probation that includes alcohol
16 and other drug treatment, the period of imprisonment shall be not less than ~~15~~ ⁷ days.
17 A person may be sentenced under this paragraph or under par. (bm) or sub. (2j) (bm)
18 or (cm) or (3r) once in his or her lifetime.

19 **SECTION 5.** 346.65 (2j) (b) of the statutes is amended to read:

20 346.65 (2j) (b) Except as provided in ~~par. pars. (bm) and~~ (d), shall be fined not
21 less than \$300 nor more than \$1,000 and imprisoned for not less than 5 days nor more
22 than 6 months if the number of prior convictions under ss. 940.09 (1) and 940.25 in
23 the person's lifetime, plus the total number of other convictions, suspension, and
24 revocations counted under s. 343.307 (2) within a 10-year period, equals 2.

25 **SECTION 6.** 346.65 (2j) (bm) of the statutes is created to read:

BILL

1 346.65 (2j) (bm) In Winnebago County, if the number of convictions under ss.
2 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions,
3 revocations, and other convictions counted under s. 343.307 (1) within a 10-year
4 period, equals 2, except that suspensions, revocations, or convictions arising out of
5 the same incident or occurrence shall be counted as one, the fine shall be the same
6 as under par. (b), but the period of imprisonment shall be not less than 10 days,
7 except that if the person successfully completes a period of probation that includes
8 alcohol and other drug treatment, the period of imprisonment shall be not less than
9 9 days. A person may be sentenced under this paragraph or under par. (cm) or sub.
10 (2) (bm) or (cm) or (3r) once in his or her lifetime.

11 **SECTION 7.** 346.65 (2j) (c) of the statutes is amended to read:

12 346.65 (2j) (c) Except as provided in ~~par.~~ pars. (cm) and (d), shall be fined not
13 less than \$600 nor more than \$2,000 and imprisoned for not less than 30 days nor
14 more than one year in the county jail if the number of convictions under ss. 940.09
15 (1) and 940.25 in the person's lifetime, plus the total number of other convictions,
16 suspensions, and revocations, counted under s. 343.307 (2), equals 3 or more.

17 **SECTION 8.** 346.65 (2j) (cm) of the statutes is created to read:

18 346.65 (2j) (cm) In Winnebago County, if the number of convictions under ss.
19 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions,
20 revocations, and other convictions counted under s. 343.307 (1) within a 10-year
21 period, equals 3 or more, except that suspensions, revocations, or convictions arising
22 out of the same incident or occurrence shall be counted as one, the fine shall be the
23 same as under par. (c), but the period of imprisonment shall be not less than 30 days,
24 except that if the person successfully completes a period of probation that includes
25 alcohol and other drug treatment, the period of imprisonment shall be not less than

BILL

1 15 days. A person may be sentenced under this paragraph or under par. (bm) or sub.
2 (2) (bm) or (cm) or (3r) once in his or her lifetime.

3 **SECTION 9.** 346.65 (3m) of the statutes is amended to read:

4 346.65 **(3m)** ~~Any Except as provided in sub. (3r), any~~ person violating s. 346.63
5 (2) or (6) shall be fined not less than \$300 nor more than \$2,000 and may be
6 imprisoned for not less than 30 days nor more than one year in the county jail. If
7 there was a minor passenger under 16 years of age in the motor vehicle at the time
8 of the violation that gave rise to the conviction under s. 346.63 (2) or (6), the offense
9 is a felony, the applicable minimum and maximum fines or periods of imprisonment
10 for the conviction are doubled and the place of imprisonment shall be determined
11 under s. 973.02.

12 **SECTION 10.** 346.65 (3r) of the statutes is created to read:

13 346.65 **(3r)** In Winnebago County, any person violating s. 346.63 (2) or (6) shall
14 be fined the same as under sub. (3m), but the period of imprisonment shall be not
15 less than 60 days, except that if the person successfully completes a period of
16 probation that includes alcohol and other drug treatment, the period of
17 imprisonment shall be not less than 15 days. If there was a minor passenger under
18 16 years of age in the motor vehicle at the time of the violation that gave rise to the
19 conviction under s. 346.63 (2) or (6), the offense is a felony, the applicable minimum
20 and maximum fines or periods of imprisonment for the conviction are doubled and
21 the place of imprisonment shall be determined under s. 973.02. A person may be
22 sentenced under this subsection or under sub. (2) (bm) or (cm) or (2j) (bm) or (cm) once
23 in his or her lifetime.

24 **SECTION 11.** 973.09 (1) (d) 1. of the statutes is amended to read:

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SECTION 11

973.09 (1) (d) 1. A violation under s. 346.63 (1) that subjects the person to a mandatory minimum period of imprisonment under s. 346.65 (2) (b) or (c). This subdivision does not apply to a person sentenced in Winnebago County if the court orders the person to complete a period of probation that includes alcohol and other drug treatment.

SECTION 12. Initial applicability.

(1) This act first applies to violations that are committed on the effective date of this subsection.

(END)

Basford, Sarah

From: Wagner, Mike
Sent: Thursday, January 26, 2006 5:23 PM
To: LRB.Legal
Subject: Draft review: LRB 05-1731/5 Topic: Drunk driving repeat offenders

It has been requested by <Wagner, Mike> that the following draft be jacketed for the SENATE:

Draft review: LRB 05-1731/5 Topic: Drunk driving repeat offenders